



36 CFR Part 701

[Docket No. 2021-2]

Loans of Library Materials for Blind and other Print-Disabled Persons

AGENCY: Library of Congress.

ACTION: Final rule.

SUMMARY: The Library of Congress is adopting amendments to its regulations regarding loans of library materials for blind and other print-disabled persons, as authorized by Title XIV of the Library of Congress Technical Corrections Act of 2019, to amend terminology, the description of services, and certification requirements, and to memorialize existing practices in the Library of Congress's National Library Service for the Blind and Print Disabled (NLS).

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Emily Vartanian, Senior Counsel, Library of Congress Office of the General Counsel, 202-707-7205, evan@loc.gov.

SUPPLEMENTARY INFORMATION: The Librarian of Congress is authorized to make regulations with respect to the Library of Congress (2 U.S.C. 136). Since neither the Federal Register Act nor the Administrative Procedure Act has binding effect on the legislative branch, the Library of Congress is not required to publish its regulations in the CFR. However, because the purpose of the CFR is to “notify industry, general business, and the people” (*Toledo, P & W.R.R. v. Stover*, 60 F. Supp. 587 (S.D. Ill. 1945)), it is appropriate for the Library to continue publishing those regulations which affect the rights and responsibilities of, and restrictions on, the public.

The Library of Congress is amending this regulation for the following reasons:

- To amend the regulation consistent with Title XIV of the Library of Congress Technical Corrections Act of 2019.
- To amend the terminology to refer to “blind and print-disabled” persons rather than “blind and other physically handicapped” persons.
- To amend the terminology to refer to “eligible persons” consistent with the Marrakesh Treaty Implementation Act amending 17 U.S.C. 121.
- To amend the description of services to include Internet-enabled/electronic services.
- To memorialize the existing practice under which persons seeking approval to use NLS’s services must certify eligibility using a form provided by NLS or by network libraries.
- To include certified psychologists, educators, certified reading specialists, and school psychologists in the list of persons who may certify eligibility for the program.
- To remove the requirement for certification by a medical doctor for those with reading disabilities, who may now be certified for participation in the program by the same persons who are authorized to certify other print-disabled individuals for participation in the program.

List of Subjects in 36 CFR Part 701

Libraries, Seals and insignia.

Final Regulation

For the reasons set forth in the preamble, the Library of Congress amends 36 CFR part 701 as follows:

PART 701—PROCEDURES AND SERVICES

1. The authority citation for part 701 continues to read as follows:

Authority: 2 U.S.C. 136; 18 U.S.C. 1017.

2. Revise § 701.6 to read as follows:

§701.6 Loans of library materials for blind and other print-disabled persons.

(a) *Program.* Under the Act of March 3, 1931 (46 Stat. 1487), as amended (2 U.S.C. 135a), the Library of Congress's National Library Service for the Blind and Print Disabled (NLS) provides accessible reading material for the use of blind and other print-disabled residents of the United States, including the several States, Insular Possessions, and the District of Columbia, and United States citizens domiciled abroad. NLS loans literary works and specialized music materials in raised characters (braille), on sound reproduction recordings, or in any other accessible format. NLS also loans devices necessary to reproduce accessible formats, including sound reproducers and refreshable braille displays, and makes audio and braille reading material available for electronic download.

(b) *Eligibility.* (1) Individuals who meet the definition of "eligible person" in 17 U.S.C. 121 are eligible for NLS's loan services. An "eligible person" thus means an individual who, regardless of any other disability—

(i) Is blind;

(ii) Has a visual impairment or perceptual or reading disability that cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or

(iii) Is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading.

(2) Eligibility must be certified by one of the following: doctor of medicine, doctor of osteopathy, ophthalmologist, optometrist, psychologist, registered nurse, therapist, and professional staff of hospitals, institutions, and public or welfare agencies

(such as an educator, a social worker, case worker, counselor, rehabilitation teacher, certified reading specialist, school psychologist, superintendent, or librarian).

(c) *Application.* Individuals seeking to receive service from NLS shall submit a fully and properly completed application form, available on NLS's website and from network libraries. Eligible persons whose applications for NLS service are approved are referred to in this section as "NLS patrons."

(d) *Lending preference.* In the lending of items under paragraph (a) of this section, the Librarian shall at all times give preference to:

(1) The needs of the blind and visually disabled; and

(2) The needs of eligible persons who have been honorably discharged from the Armed Forces of the United States.

(e) *Loans to institutions.* NLS's accessible reading materials and devices may be loaned to institutions such as nursing homes and hospitals; to schools for the blind and print-disabled; and to public or private schools. However, these materials and devices may only be used by eligible persons.

(f) *Loans through network libraries.* Libraries designated by the Librarian of Congress serve as state, local or regional centers for the direct loan of accessible reading materials and the loan and repair of devices to NLS patrons in specific geographic areas. These network libraries also publicize the program to NLS patrons and prospective patrons and process applications for service.

(g) *Loans of musical materials.* NLS maintains a special collection of accessible musical scores, instructional texts, and other specialized materials for patrons in furthering their educational, vocational, and cultural opportunities in the field of music. These materials are not housed in network libraries but are loaned directly by NLS to patrons.

(h) *International service.* The Librarian of Congress is authorized by Public Law 116-94, Title XIV, the Library of Congress Technical Corrections Act of 2019, to provide literary works published in raised characters, on sound-reproduction recordings, or in any other accessible format, and musical scores, instructional texts, and other specialized materials used in furthering educational, vocational, and cultural opportunities in the field of music published in any accessible format, to authorized entities located in a country that is a party to the Marrakesh Treaty, if any such items are delivered to authorized entities through online, not physical, means. This authorization is codified at 2 U.S.C. 135a. In implementing this authority, the Librarian shall comply with section 121A of title 17, United States Code, and shall contractually require that the recipient authorized entity likewise administer all materials received from NLS in compliance with section 121A of title 17.

(i) *Contact information.* For more information, contact the Director, National Library Service for the Blind and Print Disabled, Library of Congress, Washington, D.C. 20542, or visit the NLS website at <http://www.loc.gov/nls>.

Dated: February 8, 2021.

Carla D. Hayden,

Librarian of Congress.

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